

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ALLAN PARMELEE,

Plaintiff,

v.

No. C11-5771 RBL/KLS

TONY DUNNINGTON, HARLAN  
FINCH, DOUGLAS WADDINGTON,  
RICHARD HAYWARD, SCOTT  
RUSSELL, DANIEL WHITE, CPM  
DAN VAN OGLE, MARCIA  
SANCHEZ, ED HOSKINS, STEVE  
RAMSEY, ELDON VAIL, and JOSEPH  
GATCHELL,

Defendants.

**REPORT AND RECOMMENDATION**  
**Noted For: July 5, 2013**

Before the Court is the parties' stipulation to dismissal of Plaintiff's claims against Defendant Joseph Gatchell without prejudice. ECF No. 94.

**DISCUSSION**

Rule 41 sets forth the circumstances under which an action may be dismissed. Under Rule 41(a)(1), an action may be dismissed by the plaintiff without order of court:

(i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action.

Rule 41(2) provides, in part, that an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper.

1 The parties have stipulated to the dismissal without prejudice of Plaintiff's claims against  
2 Defendant Joseph Gatchell. ECF No. 94. The Court should grant the parties' motion (ECF No.  
3 94) and dismiss Plaintiff's claims against Defendant Gatchell without prejudice.

4 **WRITTEN OBJECTIONS**

5 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil  
6 Procedure, the parties shall have fourteen (14) days from service of this Report and  
7 Recommendation to file written objections. See also Fed. R.Civ.P. 6. Failure to file objections  
8 will result in a waiver of those objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140  
9 (1985). Accommodating the time limit imposed by Rule 72(b), the Clerk is directed to set the  
10 matter for consideration on **July 5, 2013**, as noted in the caption.  
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12 **DATED** this 14th\_ day of June, 2013.

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15 Karen L. Strombom  
16 United States Magistrate Judge  
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